Questions and Answers

Why is the District appealing this case to the United States Supreme Court?

The federal District Court and the federal Circuit Court of Appeals misapplied a key section of the federal Clean Water Act. That misinterpretation of the law would impede Everglades Restoration. It would apply the National Pollution Discharge Elimination System (NPDES) process to a certain type of pumping facility within the Everglades – in this case, the pump designated as "S-9" in western Broward county, Florida. The NPDES process is not relevant to this type of structure operated by the District. We are asking the Supreme Court to correct the lower courts' misinterpretation of the law.

Is the District in compliance with the Clean Water Act?

The District is in full compliance with the Clean Water Act. We have NPDES permits for other structures within the District where NPDES legally applies. We always comply with all environmental laws. This case is about just one specific type of permit, which Congress never intended to be applied to public entities like the District. The District, indeed, has the proper state permit.

Does the NPDES permit process apply to Everglades Restoration?

No, the NPDES permit process was intended by Congress to be applied to industrial facilities, not to public water management agencies. The District follows all the laws regarding water supply and water management. But no responsible scientist has ever suggested or recommended that an NPDES permit is needed.

From a legal standpoint: State and federal agencies, along with a scientific peer-review committee, have been working toward Everglades Restoration over the past decade. They all agree that our comprehensive planning process – and not NPDES – is the appropriate regulatory approach.

Why is getting an NPDES permit such a concern to the District?

The NPDES process simply doesn't apply in this case. This needless permitting process, providing no environmental benefit, would cost the taxpayers millions of dollars. This permit would divert scare resources from the task at hand, and would create unnecessary delays in restoring the Everglades.

What would happen if you had to apply the NPDES process?

Applying for an NPDES permit would divert a large amount of resources – that are already scarce – into a prolonged and needless permit process. The District would have to build unneeded facilities, costing hundreds of millions of dollars, carry out needless monitoring and reporting and dramatically slow Everglades Restoration.

What pollutant is most prominent in the Everglades?

The most prominent pollutant is phosphorus. In our long-term Everglades Restoration initiative, the target phosphorus level is 10 parts per billion (ppb). It is going to be very difficult to reach that standard, but our water resource engineers are working diligently, everyday, to clean up the Everglades.

When will you reach the target phosphorus levels of 10 parts per billion?

More than 80 percent of the water entering the Everglades will be at a phosphorus level of 10ppb as a result of the work completed by 2006. Taking care of the remaining 20 percent of the water is an issue that has been addressed in the Long-Term Conceptual Plan, and we will reach the 10-ppb level as soon as technology.

When will the Everglades be restored?

Our scientists and engineers are making daily progress in Everglades Restoration, unfortunately the problems are decades in the making. Since 1994, we have prevented 1400 tons of phosphorus from being introduced into the waters of the Everglades. This is the world's largest ecosystem restoration project, and we're all aiming for the same goal – Everglades Restoration. Over the next several decades, the Everglades will be restored, at a total cost of about $8 billion. Our progress toward the goal would be seriously jeopardized should the District be forced to comply with the needless permitting process, which provides no environmental benefit.

What is involved in Everglades Restoration? Is this case really all about a single pump on the edge of the Everglades?

The District is responsible for operating a series of primary canals, pumps and supporting structures that provide for the water supply, water quality, flood management and natural-system restoration in south Florida. Our job is to move water throughout the Everglades system to balance water levels. Without our efforts to manage water in the region, thousands of residents in many South Florida communities would be flooded out.

Do you need a permit for the S-9 pump and supporting structures? Does the S-9 pump create pollution?

Complying fully with the law, the District obtains all proper permits. In fact, we have a state permit for "S-9" which in completely consistent with the Clean Water Act. We intend to remain in full compliance with the Clean Water Act. We have NPDES permits on some applicable structures within the District. We always comply with all the environmental laws. The S-9 pump does not create any pollution: It does not add any pollutants to the water. It merely moves water from one place to another for the public's benefit.

Can the District keep the S-9 pump turned off and avoid this whole situation?

Absolutely not. The health, safety and welfare of the residents of western Broward County would be jeopardized if the S-9 pump were turned off. In fact, throughout this case, the courts have recognized that the answer is not as simple as just shutting down the pump. If the pump were turned off, floodwaters would overflow the canal banks, and residents and businesses would be flooded. In fact, all the parties and the court have agreed that the "S-9" pump should not be turned off.

How does this case relate to the rest of the country?

The impact of this case reaches far beyond a single pump in the Everglades. If the federal law is misinterpreted as it applies to the District, it will be misinterpreted for everyone, nationwide. That is why our argument has so many allies in this case – such as the City of New York, the United States Solicitor General, many states and many water-management authorities around the country. The Supreme Court's decision in this case will have far-reaching national consequences.

What has been the effect of your water-management practices on endangered species in the Everglades?

We've gone to great lengths to work with the federal government and environmentalists to determine the impact of Everglades Restoration on the habitat of the endangered species residing in the Everglades. Water has been reallocated within the system for habitat protection. We're determined to do all we can to protect endangered species as we pursue Everglades Restoration.

What happens if the District loses this case?

If we lose this case, the real losers will be America's taxpayers – and Americans who rely on effective water management. Across the country, other local and state entities will face even more severe problems if they're forced to pursue difficult, costly and time-consuming diversions from their real mission – protecting the environment and providing water to their local residents. In Florida, if we lose this case, Everglades Restoration efforts will be sidetracked.-

What happens if the District wins this case?

In Florida, if we win this case, Everglades Restoration will stay focused and will proceed on schedule. Across the country, other local and state entities will hopefully not have to spend their resources to defend themselves against similar litigation.

Who was responsible for the District's decision to appeal to the United States Supreme Court?

The Governing Board authorized the District's staff to appeal the lower courts' decision to the United States Supreme Court. The Governing Board recognizes that this case is both important to the citizens of Florida and will have far-reaching national consequences, and it feels confident that the Supreme Court will interpret the law as Congress intended.